Supreme Court, U.S.
FILED
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No.

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM LEE BOWERSOCK,

Petitioner,

versus

CITY OF LIMA,

and

AMY HARPSTER,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SIXTH CIRCUIT COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

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Pro Se for Petitioner

QUESTIONS PRESENTED

1. Must a civil complaint at law structure according to the liking of the United States court judges as opposed to the creation of the party in litigation presenting the civil complaint when it would in all likelihood appear the civil complaint meets the criteria of a complaint?

2. Is a municipal government in these United States of America allowed to violate a citizen's rights to due process?

3. Is a municipal government at liberty to violate The Constitutional rights of a citizen of these United States of America?

4. Can a municipal government in these United States of America extort, seize, impound, and destroy a party's personal property without due process or just cause?

LIST OF PARTIES

The parties herein:

William Lee Bowersock.....Plaintiff

City of Lima.....Defendant

Amy Harpster.....Defendant .

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PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The opinions sought to be reviewed are that of William Lee Bowersock versus City of Lima and Amy Harpster, (Circuit Court Number 04-4279) entered on July 27, 2005, and The U.S. Northern District of Ohio, (District Court Number 04-07221).

JURISDICTION

This is a case arising under The Constitution of the United States in the Fourteenth Amendment with the support of Civil Action for Deprivation of Rights 42 USC section 1981.

The Notice of Appeal was filed October 8, 2004.

The jurisdiction of the Supreme Court of the United States is conferred by Rule 19 along with Rules 12, 13, and 14 of the Supreme Court of The United States of America and 28 USC section 2101.

STATUTE

The statute primary to this case are Equal Rights Under the Law, 42 USC section 1983 supported by the U.S. Constitution in the Fourteenth Amendment at section 1.

STATEMENT OF THE CASE

The petitioner has maintained a residence at 1806 Lakewood Avenue in Lima, Ohio since August of 1967. That's a time frame of more than thirty-eight, (38) years. During this time frame, the City of Lima has been rather snobbish toward

the petitioner with demeaning, harassing remarks, trespassing by Amy Harpster and others resulting in definite stress where it is fair to expect the quiet enjoyment of a person's real and personal property. The resulting stress culminated in the petitioner succumbing to an aorta dissection in September of 2003. The petitioner was demised for three, (3) days before returning to life. Still, the City of Lima, and Amy Harpster continue the barrage. Your petitioner likened the situation to how the storm troopers of the Third Reich operated in World War II. The City of Lima, Amy Harpster, and others have damaged the petitioner by extorting, seizing, impounding, and destroying petitioner's personal property without due process or of any just cause.

ARGUMENT

The petitioner stands by his original complaint. The complaint of petitioner said it best and worst about the situation in which petitioner has certain rights in the American way toward a life style. Our rights are best spelled-out by our Constitution and the accompanying United States Code as aforementioned in Statute. The facts are that petitioner is a veteran of United States Army with discharge for physical disability. The aorta dissection presents life with further physical disability. The petitioner optimistic with positive attitude and being an overa= chiever will overcome the bully approach of the City of Lima and Amy Harpster. Calling-in the courts should be like calling in the artillery.

CONCLUSION

The petitioner respectfully requests that his petition for writ of certiorari be granted, the orders of the courts below be set aside, and that the case be remanded in the interest of fair and impartial justice.

REASONS FOR GRANTING THE WRIT

The City of Lima and Amy Harpster have been in an unilateral mode to extort, seize, impound, and destroy citizens' property. It is other than likely that anyone else has ever challenged or contested their unlawful action. And, over twenty-five thousand, (25,000) citizens have been affected by the unlawful action.

At one time past, the City of Lima was a thriving community with population approaching sixty thousand, (60,000). Now, the population is only around forty thousand, (40,000). The City of Lima is driving citizens away by their unlawful tactics of taking citizens' rights without the mode in which our Constitution defines our rights.

At one time in history, a Queen of France was reported to have said that if the French people were unable to afford bread, then let the people eat cake. Such a calloused, thoughtless statement is in very similar to what your petitioner was describing in his original filing of complaint in the case herein.

12/30/05 William Lee Bowersock

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APPENDIX

App. 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

WILLIAM LEE BOWERSOCK,
Plaintiff,

v.

THE CITY OF LIMA, et al.,
Defendants.

CASE NO. 3:04 CV 7221

JUDGE DAVID A. KATZ

OPINION AND ORDER

On December 7, 1999, plaintiff pro se William Lee Bowersock filed this action against the City of Lima and Amy Harpster. While unclear, the complaint asserts defendants have "demeaned, harassed (and) stressed the plaintiff," and alleges, inter alia, that: a water meter removed from plaintiff's property was never returned; plaintiff's water was shut off at another property; the water may be unfit to drink; and, defendants referred to personal property of plaintiff's as "junk." In an entry dated May 6, 2004, plaintiff was notified that there were no facts alleged in the complaint which could be construed to set forth a valid federal claim for relief, and was ordered to file an amended complaint setting forth a valid claim within 15 days. Plaintiff has neither filed an amended complaint nor sought additional time to do so.

Principles requiring generous construction of pro se pleadings are not without limits. Beaudett v. City of Hampton,

775 F.2d 1274, 1277 (4th Cir. 1985). District courts are not required to conjure up questions never squarely presented to them or to construct full blown claims from sentence fragments. Id. at 1278. To do so would "require ...(the courts) to explore exhaustively all potential claims of a pro se plaintiff, ...(and) would transform the district court from its legitimate advisory role to the improper role of an advocate seeking out the strongest arguments and most successful strategies for a party." Id. at 1278.

Further, legal conclusions alone are not sufficient to present a valid claim, and this court is not required to accept unwarranted factual inferences. Morgan v. Church's Fried Chicken, 829 F.2d 10, 12 (6th Cir. 1987); see also, Place v. Shepherd, 446 F.2d 1239 (6th Cir. 1971) (conclusory section 1983 claim dismissed). Even liberally construed, the complaint simply does not contain allegations reasonably suggesting plaintiff might have a valid federal claim against these defendants.

Accordingly, this action is dismissed. Further, the court certifies, pursuant to 28 u.S.C. section 1915(a)(3) that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

s/David A. Katz
DAVID A. KATZ
U.S. DISTRICT JUDGE

App. 3

No. 04-4279

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

WILLIAM LEE BOWERSOCK,
Plaintiff-Appellant,

v.

CITY OF LIMA; AMY HARPSTER,
Defendants-Appellees.

ORDER

Before: BOGGS, Chief Judge; BATCHELDER, Circuit Judge; GADOLA, District Judge.*

William Lee Bowersock, an Ohio citizen, appeals pro se a district court order denying a post-judgment motion. This case has been refferred to a panel of the court pursuant to Rule 34(j)(1), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App.P.34(a).

Bowersock filed a complaint against the City of Lima, Ohio, and a city employee. The complaint alleged that defendants had shut off the water service to his property and trespassed on his property. The district court entered an order on May 6, 2004 requiring Bowersock to file an amended complaint which stated a basis for the court's jurisdiction, or the case would be dismissed. Defendants nevertheless filed an answer to the complaint. When no amended complaint was filed, the district court dismissed the action on June 3, 2004.

Bowersock filed a motion to reopen the

case on August 2, 2004, alleging that health problems had prevented him from amending his complaint as required by the district court's May order. However, no amended complaint was submitted The district court denied the motion, noting that Bowersock had not explained why he did not move for an extension to file an amended complaint before the case was dismissed. The district court also denied a subsequent motion for reconsideration of its order, which also did not address the problem cited by the court, or contain an amended complaint.

In his brief on appeal, Bowersock argues that the defendant employee did not file an answer to the complaint, that no discovery was conducted, and that the district court was guilty of age and disability discrimination.

Bowersock's post-judgment motion, filed approximately two months after his case had been dismissed, is best construed as a motion for relie. from judgment pursuant to Federal Rule of Civil Procedure 60(b). Denial of a motion for relief under Rule 60(b) is reviewed for an abuse of discretion. Hood v. Hood, 59F.3d 40,42(6th Cir. 1995). No abuse of discretion is apparent in this case. Bowersock was given an opportunity to amend his complaint. He did not avail himself of that opportunity or request an extension of time. Two months after the case was dismissed, he moved to reopen it. However, as the district court noted, Bowersock did not explain why he could not have requested an extension before the dismissal. Nor

did he submit a proposed amended complaint.

Bowersock has done nothing to cure these deficiencies in his appeal. He only complains that one of the defendants did not file an answer. In fact, defendants answered the complaint, although the district court had previously ordered Bowersock to amend. He also complains that no discovery was permitted. He cites no authority for being permitted to conduct discovery before filing a proper complaint. The district court did not engage in discrimination in requiring Bowersock to prosecute his action.

Accordingly, the district court's order is affirmed. Rule 34(j)(2)(C), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT
s/Leonard Green
Clerk

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*The Honorable Paul V. Gadola, United States District Judge for the Eastern District of Michigan sitting by designation.

App. 6

(EXCERPTS FROM 28 USC section 2101)

TIME FOR APPEAL - S.C.T.

28 section 2101. Supreme Court; time for appeal; certiorari; docketing; stay

(a) A direct appeal to the Supreme Court from any decision under Section 1253 of this title, holding unconstitutional in whole or in part, by Act of Congress, shall be taken within thirty days after the entry of the interlocutory or final order, judgment or decree. The record shall be made up and the case docketed within sixty days from the time such appeal is taken under rules prescribed by the Supreme Court.

(b) Any other direct appeal to the Supreme Court which is authorized by law, from a decision of the district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within thirty days if final.

(c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A justice of the Supreme Court, for good cause shown may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.

(d) The time for appeal or application for a writ of certiorari to review the judgment of a State court in a criminal case shall be as prescribed by rules of the Supreme Court.

(e) An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.

(f) In any casein which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and maybe conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

(g) The time for application for a writ of certiorari to review a decision of the United States Court of Military Appeals shall be as prescribed by rules of the Supreme Court.

(EXCERPTS FROM TITLE 42 USC section 1981)

EQUAL RIGHTS UNDER THE LAW

42 USC section 1981

(a) All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for ... security of persons and property as is enjoyed by white citizens, and shall be subjected to like punishment, pains, penalties, taxes, licenses, and exactions of every kind and to no other.

(b) For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, priviledges, terms, and conditions of the contractual relationship.

(c) The rights protected by this section are protected against impairment under color of State law.

(EXCERPTS FROM TITLE 42 USC section 1983)

CIVIL ACTION FOR DEPRIVATION OF RIGHTS

42 USC section 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other personwithin the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or ommission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For purposes of this section, any Act of congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(EXCERPT FROM CONSTITUTION OF THE U.S.)
(AMENDMENT XIV section 1)

U.S. CONSTITUTION-AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizen's of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

(EXCERPTS FROM TITLE 28 USC section 1254)

28 USC section 1254 Courts of Appeals; Certiorari; Certified Questions

Cases in Courts of Appeal may be reviewed by the following methods:

(1) By Writ of Certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

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(2)

No. 05-861

SUPREME COURT OF THE UNITED STATES

WILLIAM LEE BOWERSOCK,
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CITY OF LIMA, and
AMY HARPSTER,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO
THE SIXTH CIRCUIT COURT OF APPEALS

PETITION FOR REHEARING & RECONSIDERATION

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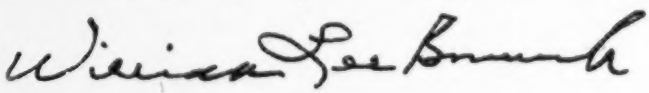
PETITION FOR REHEARING & RECONSIDERATION

Petitioner respectfully moves the HONORABLE COURT for reconsideration and rehearing from the court's order of March 20th, 2006 denying the petition for a writ of certiorari. For the HONORABLE COURT to allow the decision to stand would be in effect allowing The City of Lima and Amy Harpster to function in a reign as a monarchy without respect for the law of our Constitution of the United States. Our Constitution has defined our rights and withstood the test of time from the last quarter of the eighteenth century, the complete nineteenth century, the complete twentieth century, and into the early years of this twenty-first century. It would mark a travesty on justice and our individual rights to allow the decision now to stand in denial toward the petitioner.



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PETITIONER'S CERTIFICATE OF GOOD FAITH AND CERTIFICATE OF SERVICE

The petitioner, William Lee Bowersock, affirms and states his good faith in presenting request for reconsideration and rehearing with intent toward the justice other than for delay. The petitioner further states that a copy of Petitioner's Petition for Reconsideration and Rehearing and Petitioner's Certificate of Good Faith were served upon counsel for City of Lima, Anthony L. Geiger, 50 Town Square, Lima, Ohio 45801, telephone: (419) 228-5462 and upon respondent, Amy Harpster, 50 Town Square, Lima, Ohio 45801, telephone: (419) 228-5462 by depositing in ordinary mail of United States Postal Service with first class stamped on May 7, 2006.

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